

LAWS OF BRUNEI

CHAPTER 150
CRIMINAL LAW (PREVENTIVE DETENTION)

S 47/1984

1984 Edition, Chapter 150

Amended by

S 33/1998

S 37/2005

2008 Edition, Chapter 150

Amended by

S 29/2012

REVISED EDITION 2021



LAWS OF BRUNEI
REVISED EDITION 2021

CHAPTER 150
CRIMINAL LAW (PREVENTIVE DETENTION)

ARRANGEMENT OF SECTIONS

Section

1. Citation
- 1A. Interpretation
2. Power of Minister to make orders
3. Orders to be referred to advisory committee and subject to confirmation by His Majesty the Sultan and Yang Di-Pertuan
4. Power to substitute order for police supervision
5. Restrictions on person subject to supervision
6. Person subject to supervision not to consort with other persons subject to supervision
7. Loitering by person subject to supervision in public place etc.
8. Taking of photographs and finger impressions
9. Extension of orders
10. Constitution of advisory committees
11. Powers and procedure of advisory committees
12. Disclosure of information
13. Manner of detention and powers to order removal
- 13A. Temporary release of detainees to engage in employment

- 14. Power to detain suspected persons
 - 15. Power to arrest persons ordered to be detained
 - 16. Power to enter and search
 - 16A. Officers of Bureau to exercise powers conferred on police officers
 under sections 14, 15 and 16
 - 17. Powers of Public Prosecutor
 - 18. Rules
-

CRIMINAL LAW (PREVENTIVE DETENTION) ACT

An Act to provide for the detention and police supervision of persons who have been associated with activities of a criminal nature and for purposes connected therewith

Commencement: 26th November 1984

Citation

1. This Act may be cited as the Criminal Law (Preventive Detention) Act.

Interpretation [S 29/2012]

1A. In this Act, unless the context otherwise requires —

“Assistant Director of the Bureau” means the Assistant Director of the Narcotics Control Bureau appointed under section 2A of the Misuse of Drugs Act (Chapter 27);

“Bureau” means the Narcotics Control Bureau;

“Deputy Director of the Bureau” means the Deputy Director of the Narcotics Control Bureau appointed under section 2A of the Misuse of Drugs Act (Chapter 27);

“Director of the Bureau” means the Director of the Narcotics Control Bureau appointed under section 2A of the Misuse of Drugs Act (Chapter 27);

“Minister” means the Minister of Home Affairs;

“officer of the Bureau” has the same meaning assigned to it under the Misuse of Drugs Act (Chapter 27).

Power of Minister to make orders

2. Whenever the Minister is satisfied with respect to any person, whether such person is at large or in custody, that such person has been associated with activities of a criminal nature, the Minister may —

[S 29/2012]

(a) if he is satisfied that it is necessary that such person be detained in the interests of public safety, peace and good order, by order under his hand direct that such person be detained for any period not exceeding one year from the date of the order; or

(b) if he is satisfied that it is necessary that such person be subject to the supervision of the police or the Bureau, by order direct that such person be subject to the supervision of the police or the Bureau for any period not exceeding 3 years from the date of the order.

[S 29/2012]

Orders to be referred to advisory committee and subject to confirmation by His Majesty the Sultan and Yang Di-Pertuan

3. (1) Every order made by the Minister under section 2 shall, together with a written statement of the grounds upon which the Minister made the order, be referred by the Minister to an advisory committee constituted as provided in section 10, within 28 days of the making of the order.

(2) The advisory committee shall submit to His Majesty the Sultan and Yang Di-Pertuan a written report on the making of the order. The advisory committee may consider any representation made by a person subject to the order and may make in its written report such recommendations as it shall think fit.

(3) His Majesty the Sultan and Yang Di-Pertuan shall consider such report and may cancel or confirm the order and in confirming the order, make thereto such variations as he thinks fit.

Power to substitute order for police supervision

4. (1) At any time after an order of detention in respect of a person —

(a) has been made under section 2; or

(b) has been confirmed under the provisions of section 3(3) or after the expiry of the validity of the order,

the Minister may, by order, direct that the person be subject to the supervision of the police or the Bureau for any period not exceeding 3 years from the date of the order and thereupon any detention order made or confirmed in respect of such person is deemed to be cancelled and such person if under detention shall be released.

[S 29/2012]

(2) The provisions of section 3 apply to any order made by the Minister under subsection (1) as they apply to an order made by the Minister under section 2.

Restrictions on person subject to supervision

5. (1) Any person directed to be subject to the supervision of the police or the Bureau under section 2 or 4 (referred to in this Act as a person subject to supervision under this Act) shall be subject to the obligations imposed upon persons subject to police supervision or supervision by the Bureau under section 264 of the Criminal Procedure Code (Chapter 7) and shall also be subject to all or any of the following restrictions as the Minister may by order direct —

[S 29/2012]

(a) he shall be required to reside within the limits of any police district specified in the order;

(b) he shall not be permitted to change his residence without the written authority of a police officer not below the rank of Inspector or officer of the Bureau;

[S 29/2012]

(c) except in so far as may be otherwise provided by the order, he shall not leave Brunei Darussalam without the written authority of a police officer not below the rank of Inspector or officer of the Bureau;

[S 29/2012]

(d) he shall at all times keep the officer in charge of the police district or officer of the Bureau in the district in which he resides notified of the house or place in which he resides;

[S 29/2012]

(e) he shall be liable, at such time or times as may be specified in the order, to present himself at the nearest police station or the Bureau;

[S 29/2012]

(f) he shall remain within doors or within such area as may be defined in the order, between such hours as may be specified in the order, unless he obtains special permission to the contrary from the officer in charge of the police district or officer of the Bureau in the district in which he resides;

[S 29/2012]

(g) except in so far as may be otherwise provided by the order, he shall not be permitted to enter any area specified in the order.

(2) The Minister may, by order in writing served on the person subject to supervision under this Act, vary, cancel or add to any restrictions imposed under this section.

(3) A person subject to supervision under this Act who contravenes or fails to comply with any order or restriction imposed on him under this section is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 3 years and not less than one year.

Person subject to supervision not to consort with other persons subject to supervision

6. (1) No person subject to supervision under this Act shall consort or habitually associate with any other person subject to supervision under this Act without the permission of the officer in charge of the police district or officer of the Bureau in the district in which he resides, unless he proves that he did not know and had no reason to suspect that such other person was a person subject to supervision under this Act.

[S 29/2012]

(2) Any person who contravenes the provisions of this section is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 3 years and not less than one year.

Loitering by person subject to supervision in public place etc.

7. Any person subject to supervision under this Act who —

(a) is found between the hours of sunset and sunrise frequenting or loitering in or about any public place or in the neighbourhood of any place of public entertainment;

(b) at any time is found in the company of two or more persons subject to supervision under this Act; or

(c) at any time is found in or near any place in which any act of violence or breach of the peace is being or has just been committed,

and who is unable satisfactorily to account for his presence at such place or time or in such company is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 3 years and not less than one year.

Taking of photographs and finger impressions

8. (1) A police officer or an officer of the Bureau may take or cause to be taken the photographs and finger impressions of any person subject to supervision under this Act; and every such person shall be legally bound to submit to the taking of his photographs and finger impressions, and may be compelled thereto by the use of force, if necessary.

[S 29/2012]

(2) Any person who being legally bound under subsection (1) to submit to the taking of his photographs or finger impressions refuses or fails to submit thereto on demand is guilty of an offence and liable on conviction to a fine of \$500 and imprisonment for 6 months.

Extension of orders

9. (1) His Majesty the Sultan and Yang Di-Pertuan may extend the validity of any order of detention confirmed under the provisions of section 3(3) for periods not exceeding one year at any one time and may at any time refer any such order for further consideration by an advisory committee.

(2) His Majesty the Sultan and Yang Di-Pertuan may extend the period for which a person is directed to be under the supervision of the police or an officer of the Bureau by any order confirmed under the provisions of

section 3(3) and may at any time refer any such order for further consideration by an advisory committee.

[S 29/2012]

Constitution of advisory committees

10. For the purposes of this Act, the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint one or more advisory committees each consisting of not less than two persons.

Powers and procedure of advisory committees

11. (1) Every advisory committee shall for the purposes of this Act have all the powers of a court for the summoning and examination of witnesses, the administration of oaths or affirmations and for compelling the production of documents.

(2) Every member of an advisory committee is deemed to be a public servant within the meaning of the Penal Code (Chapter 22) and shall have, in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duty under the provisions of this Act, the same protection and privileges as are by law given to a judge in the execution of his office.

(3) Every advisory committee shall have regard to the requirements of public safety, the protection of individuals and the safeguarding of sources of information and subject to the provisions of this Act and any rules made under section 18 may regulate its own procedure.

Disclosure of information

12. Nothing in this Act or in any rules made under section 18 shall require the Minister or any other public servant to disclose facts which he considers it to be against the public interest to disclose.

Manner of detention and powers to order removal

13. (1) Every person detained in pursuance of an order made under the provisions of section 2 shall be detained in such place as the Minister may direct and in accordance with instructions issued by the Minister.

(2) The Minister may by order direct the removal from any place of detention to another place of detention to be specified in such order of any

person detained in pursuance of an order made under the provisions of section 2.

(3) On proof to his satisfaction that the presence at any place of any person detained in pursuance of an order made under the provisions of section 2 is required —

(a) in the interests of justice;

(b) for the purpose of any inquiry; or

(c) in the public interest or in the interest of the person detained,

the Minister may order that such person be taken to that place.

(4) Any person —

(a) in the course of removal under the provisions of subsection (2) or in the course of being taken to any place in pursuance of the provisions of subsection (3); and

(b) when so removed or while at such place,

shall be kept in such custody as the Minister may direct and while in that custody is deemed to be in lawful custody.

Temporary release of detainees to engage in employment

13A. (1) The Minister may, on the recommendation of an advisory committee appointed for the purposes of this section, direct that a detainee shall be released from day to day to engage in such employment, including self-employment, as the Minister may specify.

(2) Any direction given under subsection (1) shall have effect for a period to be fixed by the Minister and may be subject to such conditions and restrictions as may be imposed by the Minister.

(3) The Minister may at any time revoke any direction made under subsection (1).

(4) The Minister may, subject to such conditions as he thinks fit, grant leave to a detainee in respect of whom a direction has been made under subsection (1) to spend his leave at such place as the Minister may specify.

(5) The Minister may at any time revoke any leave granted to a detainee under subsection (4).

(6) Where any direction made under subsection (1) is in force in respect of a detainee or any leave is granted under subsection (4) to a detainee, the Superintendent of the place of detention shall release the detainee at such times and for such periods as are necessary to give effect to the direction or grant of leave.

(7) If any detainee in respect of whom a direction has been made under subsection (1) or leave has been granted under subsection (4) remains at large without lawful excuse or fails to return to his place of detention after the direction or leave has been revoked, he is deemed to be unlawfully at large and to have escaped from lawful custody.

(8) Every person released under this section shall continue to be in the legal custody of the Superintendent of the place of detention from which he was released during every period for which he is so released.

(9) In this section, "detainee" means any person who is detained in pursuance of an order made under section 2.

Power to detain suspected persons

14. (1) Any police officer may without warrant arrest and detain pending enquiries any person in respect of whom he has reason to believe there are grounds which would justify the detention of such person under section 2.

(2) No person shall be detained under the provisions of this section for a period exceeding 24 hours except with the authority of a police officer of or above the rank of Assistant Superintendent or for a period of 48 hours in all:

Provided that if an officer of or above the rank of Superintendent of Police is satisfied that the necessary enquiries cannot be completed within that period of 48 hours, he may authorise the further detention of such person for an additional period not exceeding 14 days and shall on giving such

authorisation forthwith report the circumstances to the Commissioner of Police.

(3) Any person detained under the powers conferred by this section is deemed to be in lawful custody and may be detained in any prison or in any police station or in any other similar place authorised generally or specially by the Minister.

Power to arrest persons ordered to be detained

15. (1) Any police officer may without warrant arrest any person found at large in respect of whom there is in existence a detention order made by the Minister under the provisions of section 2 and shall forthwith report such arrest to the Commissioner of Police.

(2) Any person arrested in pursuance of the provisions of subsection (1) is deemed to be in lawful custody and may be detained for a period not exceeding 48 hours in any prison or in any police station pending the issuing of instructions by the Minister for his further detention.

Power to enter and search

16. (1) Notwithstanding anything to the contrary contained in any written law, it shall be lawful for any police officer of or above the rank of Assistant Superintendent or a police officer of any rank specially authorised by a police officer of or above the rank of Assistant Superintendent —

(a) in order to effect the arrest of any person in pursuance of the provisions of this Act, to enter and search any place; and

(b) in order to effect an entrance into such place, to break open any outer or inner door or window of any such place if he cannot otherwise obtain admittance thereto.

(2) In this section, “place” includes any vehicle, vessel or aircraft, whether in a public place or not.

Officers of Bureau to exercise powers conferred on police officers under sections 14, 15 and 16

16A. (1) Subject to the provisions of this section, the powers conferred upon a police officer under sections 14, 15 and 16 may be exercised by an officer of the Bureau.

(2) The powers conferred upon a police officer of or above the rank of Assistant Superintendent under sections 14(2) and 16 may be exercised by the Director, the Deputy Director or an Assistant Director of the Bureau.

(3) The power conferred upon an officer of or above the rank of Superintendent of Police under the proviso of section 14(2) may be exercised by the Director or the Deputy Director of the Bureau.

(4) Subject to subsection (5), where the power conferred upon an officer of or above the rank of Superintendent of Police under the proviso of section 14(2), or the power conferred upon a police officer under section 15(1), is exercised by an officer of the Bureau in accordance with this section, the duty to report to the Commissioner of Police under those sections shall be read as a duty to report in a similar manner to the Director of the Bureau.

(5) The duty to report to the Director of the Bureau referred to in subsection (4) does not apply where the power under the proviso of section 14(2) or under section 15(1) was exercised by the Director of the Bureau himself.

(6) *(Repealed by S 29/2012).*

Powers of Public Prosecutor

17. Nothing in this Act derogates from the powers of the Public Prosecutor with regard to the control and direction of criminal prosecutions.

Rules

18. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make rules for the purpose of carrying into effect all or any of the provisions of this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1), such rules may provide for —

(a) the issue by the Commissioner of National Registration appointed under the National Registration Act (Chapter 19) of special identity cards to all or any class of persons subject to supervision under this Act;

(b) the form, custody, production, inspection, cancellation, alteration, endorsement on and replacement of such cards and the substitution thereof for identity cards issued to such persons under any written law; and

(c) all other matters necessary or desirable in connection with such cards or the carrying thereof or the enforcement of such rules, including the prescription of penalties not exceeding in respect of any offence a fine not exceeding \$5,000, imprisonment for a term not exceeding 3 years or both.

